IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
WRIT PETITION NO.6497 OF 2006

Badriprasad Bhoruka Family Trust .... Petitioner
Vs.
M/s. Sudhakar Co-operative Housing Society Ltd. & Ors. .... Respondents

Shri P.G. Karande i/b Ms Leena Sawant for the Petitioner.

Sarvasri Ramadasan K.V. h/f Jeganathan V. for the Respondent No.1.

CORAM: R.M.S. KHANDEPARKAR, J.

DATED: OCTOBER 16, 2006

P.C:

1. The learned Advocate appearing for the respondent No.1 has brought to my notice that in fact the petitioner is yet to be joined as an intervenor in the proceedings before the lower authority and its application for joining as intervenor in the proceedings is yet to be disposed of by the lower authority. On the last date of hearing, the learned Advocate for the petitioner, while arguing the matter, contended that the petitioner is intervenor in the proceedings. In fact, considering the factual situation i.e. the application for intervention filed by the petitioner is still pending for appropriate order on the said application before the lower authority, the petitioner cannot claim

to be intervenor in the petition. The petitioner can, at the most, contend to be an applicant for intervention in the proceedings. There is a difference between the status of an intervenor and the applicant who is desiring to become an intervenor in a proceedings.

2. On the basis of the statement of the learned Advocate for the petitioner on the last date of hearing, it was observed by me in the order dated 10-10-2006 that only grievance of the petitioner in the matter relates to the fact that the revisional authority without considering the issue regarding the delay in filing the revision application had proceeded to grant stay of the order passed by the lower authority. Apparently, the said observation was on the basis of the contention sought to be raised on behalf of the petitioner that the petitioner is the intervenor in the proceedings. Once it is apparent that the petitioner is yet to be an intervenor in the proceedings and its application is still pending disposal, the petitioner cannot today claim to be an intervenor in the proceedings.

3. The roznama copy produced by the petitioner itself discloses that the application for intervention was filed by the petitioner on 8-5-2006 and the matter was adjourned to 22-6-2006 for reply in the said application which was accordingly filed by the applicant in the

revisional proceedings. The matter was then adjourned to 10-8-2006 on which day the matter was adjourned to 12-9-2006. When the matter came up for hearing on 12-9-2006, the Advocate for the intervenor filed an application for adjournment of the hearing and the matter was adjourned to 5-12-2006 at 3:00 p.m.. It appears that thereafter some application was filed on the very day by the party to the proceedings for amendment and the same was allowed. Merely because such an application was entertained without notice to the petitioner, grievance is sought to be made in that regard and thereafter the present petition has been filed.

4. Since the issue as to whether the petitioner is entitled to be an intervenor or not in the proceedings is yet to be decided by the lower authority, question of going into the other issues sought to be raised by the petitioner does not arise at all at this stage. Besides, it is well-settled law that an intervenor as such is not entitled to file any pleadings in the matter. The intervenor has to assist the Court on the basis of the records placed by the parties to the proceedings.

5. In the circumstances, there is no question of interference by this Court in writ jurisdiction under

Article 227 of the Constitution of India in the matter at this stage. Since the issue as to whether the petitioner is to be allowed to intervene in the matter as an intervenor or not is still pending before the lower authority, interference by this Court on other issues at the instance of the petitioner would be too premature.

6. For the reasons stated above, therefore, the petition is dismissed.

(R.M.S. Khandeparkar, J.)

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